

Message Text

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ACTION SAB-01

INFO OCT-01 ARA-10 ISO-00 SS-14 SAM-01 SP-02 INR-10 CIAE-00

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FM AMEMBASSY PANAMA

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INFO GOV PAN CANAL PRIORITY

USCINCSO PRIORITY

C O N F I D E N T I A L SECTION 1 OF 2 PANAMA 3754

L I M D I S

EO 11652: GDS

TAGS: PFOR, PN

SUBJ: U S-PANAMA TREATY NEGOTIATIONS: BACKGROUND

SUMMARY OF JUNE 27-30 TALKS

REF: PANAMA 3750

THE FOLLOWING IS A SUMMARY, FOR THE BACKGROUND INFORMATION OF THE WASHINGTON AGENCIES INVOLVED, OF THE MAIN POINTS DISCUSSED BY THE U S AND PANAMANIAN CHIEF NEGOTIATORS DURING THE JUNE 27-30 TALKS ON CONTADORA ISLAND.

REACTION TO JUNE 22 U S PAPER

1. THE U S ORALLY INTRODUCED THE CONCEPTS CONTAINED IN THE U S PAPER DATED JUNE 22. A COPY OF THE PAPER WAS SUBSEQUENTLY PROVIDED TO PANAMA.

2. PANAMA MADE THE FOLLOWING GENERAL COMMENTS:

A. NOW IS THE TIME TO DEAL IN CONCRETE TERMS IF WE ARE TO SUCCEED IN OUR MUTUAL DESIRE TO DRAFT A NEW TREATY PROMPTLY. THUS, PANAMA APPRECIATES THE COMPREHENSIVE NATURE OF THE U S INITIATIVE.

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B. THAT WHILE THEY MIGHT HAVE DIFFERING VIEWS ON SOME OF THE U S STATEMENTS, THE ESSENTIAL CONCEPTS WERE CLOSE TO THOSE PANAMA HAD IN MIND.

C. PANAMA FULLY ACCEPTS THE CONCEPT THAT PANAMANIAN PARTICIPATION WILL BE "VERY SMALL" AT THE BEGINNING AND GRADUALLY BECOME GREATER OVER THE TREATY'S LIFETIME.

3. PANAMA FURTHER COMMENTED THAT THEY APPRECIATED THE U S TREATMENT OF THE RELATIONSHIP BETWEEN THE CONCEPTS OF PANAMANIAN SOVEREIGNTY AND U S CONTROL, SINCE IT DEMONSTRATED THAT THE U S IS ATTENTIVE TO THEIR POLITICAL NEEDS. THEY DO NOT PERCEIVE ANY BASIC CONFLICT BETWEEN THE TWO CONCEPTS. PANAMA ACCEPTS AS BOTH NECESSARY AND DESIRABLE THE CONCEPT OF EFFECTIVE U S CONTROL. THE ONLY PROBLEM IS ONE OF TERMINOLOGY: "EFFECTIVE CONTROL" MIGHT SEEM TO SOME TO AFFECT SOVEREIGNTY.

4. THE U S RESPONDED THAT SINCE PANAMA ACCEPTS THE CONCEPT OF EFFECTIVE U S CONTROL IT SHOULD NOT BE TOO DIFFICULT TO FIND LANGUAGE TO EXPRESS THAT CONCEPT THAT MEETS PANAMA'S NEEDS. PANAMA NOTED THAT THE ANALOGY OF A JUNIOR-SENIOR PARTNER RELATIONSHIP USED BY THE U S HAD STRUCK THEM AS A VERY GOOD ONE AND THAT IT MIGHT BE USEFUL IN RESOLVING THE PROBLEM OF TERMINOLOGY. LANGUAGE WHICH IMPLIES MUTUALITY AND, AT THE SAME TIME, A SENIOR, CONTROLLING ROLE FOR THE U S IS WHAT SHOULD BE SOUGHT.

5. FINALLY, PANAMA NOTED THAT IT WAS IMPRESSED BY THE FACT THAT THE U S HAD NOT RAISED THE MATTER OF SECURITY POSITIONS. PANAMA UNDERSTANDS THAT THE U S NEEDS SOME SUCH POSITIONS, BUT IT HAS A PSYCHOLOGICAL PROBLEM TO OVERCOME. THE FACT THAT THE U S IS NO LONGER SEEMINGLY INTRANSIGENT ON THE SUBJECT IS HELPFUL. THE U S SUGGESTED THAT IT MIGHT BE USEFUL TO CONSIDER CREATING SOME POSITIONS THAT COULD BE HELD ONLY BY PANAMANIAN IN ADDITION TO THOSE RESERVED FOR AMERICAN CITIZENS. PANAMA RESPONDED THAT THIS WOULD BE EXCELLENT. "IT WOULD MAKE US FEEL NEEDED."

GENERAL NEGOTIATING PROCEDURE

6. PANAMA STATED THAT IN ACCORDANCE WITH THE NEGOTIATORS' CONFIDENTIAL

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AGREEMENT THAT THERE SHOULD BE NO SURPRISES BETWEEN THEM, THE U S SHOULD BE AWARE THAT PANAMA WAS IN THE PROCESS OF PREPARING WORKING PAPERS ON ALL ASPECTS OF THE NEGOTIATIONS. AT THIS POINT, PANAMA HAS FOCUSED PRIMARILY ON THE PARTICIPATION ISSUE, SINCE IT IS THE "HEART" OF THE TREATY. THAT IS NOT TO SAY, HOWEVER, THAT THERE ARE NOT OTHER MATTERS OF GREAT IMPORTANCE TO PANAMA, SUCH AS JURISDICTION.

7. PANAMA INDICATED THE PAPERS THEY WOULD PRESENT DURING THIS ROUND OF TALKS, AND THROUGHOUT THE NEGOTIATION, ARE INFORMAL WORKING PAPERS, AND ARE SIMPLY "PERSONAL THOUGHTS" NOT OFFICIAL POSITIONS. "WE ARE NOT TRYING TO JUSTIFY OURSELVES BEFORE HISTORY WITH THESE PAPERS. IF YOU WANT TO TEAR THEM UP, DO SO. THE PAPERS WE PRESENT SHOULD THEREFORE NOT BE CONSIDERED AS PUTTING EITHER SIDE IN CONCRETE."

8. PANAMA ALSO EXPRESSED THEIR DESIRE TO CONTINUE IN THE SPIRIT OF MUTUAL TRUST IN THE NEGOTIATION. "THE TRUST IN PANAMA DEMONSTRATED IN THE SIMPLE FACT THAT THE U S AGREED TO PRINCIPLE 7 HAS HAD A MOST SIGNIFICANT IMPACT."

9. PANAMA PROPOSED THAT THE NEGOTIATORS EXPERIMENT WITH PUTTING PROPOSALS IN THE FORM OF TREATY ARTICLES AS A MEANS OF EXPEDITING THE NEGOTIATING PROCESS, NOTING THAT IF THE U S DID NOT FIND THE IDEA USEFUL, PANAMA WOULD ABANDON IT. THEY WENT ON TO EXPRESS CONCERN WITH RESPECT TO THE U S PROPOSAL TO TURN THE CONCEPTUAL AGREEMENTS OF THE NEGOTIATORS OVER TO TECHNICAL TEAMS FOR THE DRAFTING OF TREATY LANGUAGE, THAT THE TECHNICIANS MIGHT WELL VIOLATE THE AGREED-UPON CONCEPTS BY ENDLESS ARGUMENTS OVER IMPLEMENTATIONAL DETAILS. "LET THE TECHNICIANS TELL US WHAT SHOULD BE DONE IN THE TREATY DRAFTING, AND WE WILL WRITE IT SO OUR CONCEPTS ARE NOT DISTORTED." THE U S AGREED THAT THE NEGOTIATORS SHOULD DO THE ACTUAL DRAFTING AFTER CONSULTATION WITH THEIR ADVISERS. WITH RESPECT TO THE QUESTION OF PUTTING PROPOSALS IN TREATY FORM INITIALLY, THE U S FELT THAT IT WOULD BE MORE EXPEDITIOUS TO REACH THRESHOLD AGREEMENTS FIRST, NOTING THAT THEY COULD READILY BE TURNED INTO TREATY LANGUAGE. PANAMA AGREED THAT THIS PROCEDURE WOULD BE SUITABLE.

PANAMA'S WORKING PAPERS

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10. PANAMA SUBMITTED SOME "PERSONAL IDEAS" IN THE FORM OF TWO DRAFT ARTICLES, ONE DEALING WITH THE ABROGATION OF EXISTING AGREEMENTS, THE OTHER THE FORM OF THE ADMINISTRATIVE ENTITY. COPIES ARE BEING HAND CARRIED TO THE DEPARTMENT BY AMBASSADOR BUNKER. THEY REITERATED THEIR COMMENTS AS TO THE STATUS OF SUCH PAPERS, THEN MADE THE FOLLOWING EXPLANATORY COMMENTS:

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S/S-O. MR. KURZE.

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ACTION SAB-01

INFO OCT-01 ARA-10 ISO-00 SS-14 SAM-01 SP-02 INR-10 CIAE-00

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INFO GOV PANANAMA CANAL PRIORITY

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C O N F I D E N T I A L SECTION 2 OF 2 PANAMA 3754

L I M D I S

A. PANAMA HAS NO FIRM VIEWS ON WHETHER THE CONTINUATION OF THE EXISTING CANAL COMPANY OR THE CREATION OF A NEW JOINT ADMINISTRATION WOULD BE PREFERABLE, AND ITS DRAFT PROVISIONS ON THE CORPORATE FORM ARE MERELY AN EXAMPLE OF ONE POSSIBLE ALTERNATIVE.

B. HOWEVER, PANAMA BELIEVES THAT THE ENTITY MUST IN SOME WAY DERIVE FROM BOTH GOVERNMENTS. WE MUST AVOID THE 1967 FORMULA AND ESTABLISH THAT THE ULTIMATE RESPONSIBILITY IS AT THE GOVERNMENT-TO-GOVERNMENT LEVEL.

C. "THE TASK OF THE NEGOTIATORS IS TO CREATA ANENTITY - AND ANY KIND - WHICH GIVES THE U.S. CONTROL AND WHICH IS ORIENTED TOWARDS GROWING PANAMANIAN PARTICIPATION."

11. THE U.S. AGREED THAT ULTIMATE RESPONSIBILITY FOR IMPLEMENTING THE TREATY MUST FALL UPON THE TWO GOVERNMENTS. THEY NOTED, HOWEVER, THAT THE FORM OF THE ENTITY WAS REALLY A TECHNICAL MATTER, AND ONLY A PART OF THE BROADER QUESTION OF PARTICIPATION. PANAMA AGREED THAT TECHNICAL MATTERS SHOULD BE ADDRESSED AFTER AGREEMENT IS REACHED ON CONCEPTS. THE U.S. FURTHER COMMENTED THAT THE FORMULA FOR THE BOARD OF THE ADMINISTRATIVE ENTITY CONTAINED IN THE PANAMANIAN PAPER WOULD RESULT IN THE TERMINATION OF U.S. VOTING CONTROL AT SOME POINT BEFORE THE TERMINATION OF THE TREATY. PANAMA SAID THEY NOW UNDERSTOOD THIS, AND HAD NOT MEANT TO DEPRIVE THE

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U.S. OF CONTROL. THE SCHEME SHOULD BE RE-EVALUATED.

12. WITH RESPECT TO THE MATTER OF ABROGATING EXISTING AGREEMENTS, THE U.S. COMMENTED THAT IF THIS MATTER WERE TO BE TREATED IN AN INSTRUMENT SEPARATE FROM THE NEW TREATY, THERE WOULD BE A RISK THAT OPPONENTS IN THE U.S. SENATE WOULD SEIZE UPON THE ABROGATION TREATY IN ISOLATION FROM THE OTHER AND WOULD THEREBY HAVE A BETTER CHANCE OF BLOCKING RATIFICATION. PANAMA UNDERSTOOD AND AGREED THAT THIS MATTER SHOULD BE INCLUDED IN THE MAIN TREATY.

THRESHOLD AGREEMENTS.

13. IN ORDER TO RESPOND POSITIVELY TO THE COMMENTS AND PROPOSALS PUT FORTH BY PANAMA, AND TO COMMIT TO WRITING THE AGREEMENTS REACHED BY THE NEGOTIATORS, THE U.S. PRESENTED DRAFT "THRESHOLD AGREEMENTS" ON THE SUBJECTS OF PANAMANIAN PARTICIPATION IN THE ADMINISTRATION OF THE CANAL, AND THE ABROGATION OF EXISTING AGREEMENTS. COPIES OF THESE DOCUMENTS ARE ALSO BEING HAND CARRIED TO THE DEPARTMENT BY AMBASSADOR BUNKER. PANAMA REVIEWED THE PAPERS, AND OBTAINED THE CONCURRENCE OF GENERAL TORRIJOS. PANAMA ASKED WHETHER IT WOULD BE APPROPRIATE TO INITIAL THE AGREEMENTS. THE U.S. RESPONDED THAT IN VIEW OF THE MUTUAL TRUST BETWEEN THE NEGOTIATORS, THEY SAW NO NEED TO DO SO, BUT WOULD IF PANAMA FELT IT WOULD BE APPROPRIATE. PANAMA STATED THAT THEY FELT THE SAME WAY - THAT TRUST WAS THE BEST BASIS FOR AN AGREEMENT - AND HAD INQUIRED ONLY TO DETERMINE IF THE U.S. DESIRED MORE FORMALITY.

14. THE DEPUTY U.S. NEGOTIATOR IS REMAINING IN PANAMA TO AWAIT THE COMPLETION OF CONSULTATIONS ON THE AGREEMENTS WITH THE PRESIDENT AND VICE PRESIDENT AND TO CONSIDER ANY MINOR LANGUAGE CHANGES PANAMA MIGHT PROPOSE AS A RESULT. PANAMA NOTED THAT SUCH CONSULTATIONS WOULD NOT BE REQUIRED IN THE CASE OF EVERY AGREEMENT REACHED, BUT IN VIEW OF THE "TRANSCENDENTAL" NATURE OF THESE FIRST AGREEMENTS, THEY FELT IT APPROPRIATE.

JORDEN

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S/S-O MR. KURZE.
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